IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE A.K.BASHEER

TUESDAY, THE 11TH SEPTEMBER 2007 / 20TH BHADRA 1929

MACA.No. 97 of 2005

OPMV.95/1995 of IIADDL. M.A.C.T., KOZHIKODE

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APPELLANT/APPLICANT:

V.K.RAJAN NAIR, S/O. RAMAN NAIR,
KARALIPURAYIL HOUSE, PERINGALAM,
KUNNAMANGALAM (P.O), KOZHIKODE.

BY ADV. SMT.P.K.RADHIKA

RESPONDENTS: RESPONDENTS:
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1. VAZHAKANDYIL MURALIDHARAN,
S/O. KELAPPAN, VALYIAKODE (P.O), PERAMBRA (VIA),
KOZHIKODE.

2. CHERIYA POOLAKANDY GOPALAN,
S/O. ARIYAN, AVALA (P.O), KOZHIKODE DISTRICT.
(name of the second respondent is strike out from the party array as per order dated 29/3/06 in I.A.677/06)

3. THE NEW INDIA ASSURANCE CO. LTD.,
BRANCH OFFICE, TRIPURI BUILDING,
EAST NADAKKAVU, KOZHIKODE.

BY ADV. SRI.LAL GEORGE

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 11/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.S.RADHAKRISHNAN & A.K.BASHEER, JJ.

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M.A.C.A.No.97 OF 2005

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Dated this the 11th day of September, 2007

JUDGMENT

Radhakrishnan, J

This appeal arises out of the award in O.P.(MV)No.95/95 of the Motor Accident Claims Tribunal, Kozhikode. M.A.C.A.97/05 is preferred by the appellant/claimant claiming enhanced compensation. On 4.9.94 while appellant/claimant was driving the scooter, a mini lorry driven by second respondent came at an excessive speed and dashed against his scooter and the appellant/claimant was thrown out and he sustained serious injuries. According to the appellant/claimant, the accident occurred only due to the rash and negligent driving of the second respondent. Respondent no.1 is the owner of the mini lorry and respondent no.3 is the insurer. All the respondents are jointly and severally liable to compensate the petitioner at an amount of Rs.1,50,000.

2. Respondents 1, 2 and 3 filed written statement denying the plea of negligence. PW1 was examined and

Exts.A1 to A11 documents were marked on the side of the petitioner and X1 also was marked. No evidence was adduced by the respondents. Tribunal awarded a total sum of Rs.27,000/- as compensation to the petitioner with 9% interest.

3. Learned counsel appearing for the claimant submits that the amount awarded by the Tribunal is inadequate considering the nature of the injuries sustained by the appellant/claimant. Ext.X1 is the certificate issued by the Medical Board, Kozhikode dated 9.10.03 stating that the appellant/claimant has a permanent disability of 1%. Ext.A8 is the certificate dated 4.11.99 issued by the doctor, Neurology, Medical College, Kozhikode stating that the appellant/claimant had developed an area of numbness over the cheek left and upper lip left immediately after the accident. Certificate also says nerve injury to left maxillary division of trigminal nerve. It is seen that the appellant/claimant had undergone treatment in an Ayurveda Hospital also. Ext.P9 receipt has been produced by the

appellant/claimant showing that an amount of Rs.5,560/- has been paid for Ayurveda treatment. No amount was awarded by the Tribunal under this head on the basis of Ext.A9 certificate. We find no reason to reject that certificate.

4. In such circumstances, we are inclined to accept A9, receipt showing Ayurveda treatment expense, and we award an additional amount of Rs.5,560/- in addition to the amount already granted with interest at 9% p.a. from the date of the petition till payment.

This appeal is allowed as above.

K.S.RADHAKRISHNAN, JUDGE

A.K.BASHEER, JUDGE

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